

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

JERRY K. WONG, on behalf of himself and all others similarly situated,	)	CASE NO. 2:13-cv-07887-ES-JAD
	)	
	)	
Plaintiff,	)	
	)	
	)	
	)	
v.	)	
	)	
	)	
GREEN TREE SERVICING, LLC,	)	
	)	
	)	
Defendant.	)	

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**DEFENDANT GREEN TREE SERVICING LLC'S ANSWER AND AFFIRMATIVE  
DEFENSES**

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Defendant, Green Tree Servicing, LLC (“Green Tree”), by its undersigned counsel and pursuant to Fed. R. Civ. P. 12(a), hereby serves its Answer and Affirmative Defenses to Plaintiff, Jerry K. Wong’s, Class Action Complaint (the “Complaint”).

**INTRODUCTION**

1. Green Tree admits only that Plaintiff purports to bring a class action and recover damages for alleged debt collection practices but denies that class certification is warranted or that Plaintiff is entitled to any relief whatsoever.

2. Green Tree denies the allegations in Paragraph 2 of the Complaint as a legal conclusion to which no response is required. To the extent a further response is required, Green Tree denies the allegations in Paragraph 2.

3. Green Tree denies the allegations in Paragraph 3 of the Complaint as a legal conclusion to which no response is required. To the extent a further response is required, Green Tree denies the allegations in Paragraph 3.

**JURISDICTION AND VENUE**

4. Green Tree admits only that the Court has subject matter jurisdiction, but denies that Plaintiff is entitled to any relief whatsoever.

5. Green Tree admits only that the Court has personal jurisdiction and venue is proper, and denies the remaining allegations in Paragraph 5 of the Complaint.

**PARTIES**

6. Green Tree is without knowledge as to the allegations in Paragraph 6 of the Complaint, and thus, denies same.

7. Green Tree denies the allegations in Paragraph 7 of the Complaint as a legal conclusion to which no response is required. To the extent a further response is required, Green Tree denies the allegations in Paragraph 7.

8. Green Tree admits the allegations in Paragraph 8 of the Complaint.

9. Green Tree denies the allegations in Paragraph 9 of the Complaint.

10. Green Tree denies the allegations in Paragraph 10 of the Complaint as a legal conclusion to which no response is required. To the extent a further response is required, Green Tree denies the allegations in Paragraph 10.

**FACTS**

11. Green Tree admits the allegations in Paragraph 11 of the Complaint.

12. Green Tree denies the allegations in Paragraph 12 of the Complaint.

13. Green Tree denies the allegations in Paragraph 13 of the Complaint.

14. Green Tree denies the allegations in Paragraph 14 of the Complaint as a legal conclusion to which no response is required. To the extent a further response is required, Green Tree denies the allegations in Paragraph 14.

15. Green Tree denies the allegations in Paragraph 15 of the Complaint as a legal conclusion to which no response is required. To the extent a further response is required, Green Tree denies the allegations in Paragraph 15.

16. Green Tree denies the allegations in Paragraph 16 of the Complaint as a legal conclusion to which no response is required. To the extent a further response is required, Green Tree denies the allegations in Paragraph 16.

17. Green Tree denies the allegations in Paragraph 17 of the Complaint as a legal conclusion to which no response is required and on the grounds that the attached document speaks for itself.

18. Green Tree admits the allegations in Paragraph 18 of the Complaint.

19. Green Tree admits the allegations in Paragraph 19 of the Complaint.

20. Green Tree denies the allegations in Paragraph 20 of the Complaint as a legal conclusion to which no response is required. To the extent a further response is required, Green Tree denies the allegations in Paragraph 20.

21. Green Tree denies the allegations in Paragraph 21 of the Complaint.

**CLAIMS FOR RELIEF**

22. Green Tree repeats and realleges its responses to Paragraphs 1 through 21, as if fully set forth herein.

23. Green Tree denies the allegations in Paragraph 23 of the Complaint as a legal conclusion to which no response is required. To the extent a further response is required, Green Tree denies the allegations in Paragraph 23.

24. Green Tree denies the allegations in Paragraph 24 of the Complaint.

25. Green Tree denies the allegations in Paragraph 25 of the Complaint as a legal conclusion to which no response is required. To the extent a further response is required, Green Tree denies the allegations in Paragraph 25.

26. Green Tree denies the allegations in Paragraph 26 of the Complaint as a legal conclusion to which no response is required. To the extent a further response is required, Green Tree denies the allegations in Paragraph 26.

**POLICIES AND PRACTICES COMPLAINED OF**

27. Green Tree denies the allegations in Paragraph 27 of the Complaint.

28. Green Tree denies the allegations in Paragraph 28 of the Complaint.

29. Green Tree denies the allegations in Paragraph 29 of the Complaint as a legal conclusion to which no response is required. To the extent a further response is required, Green Tree denies the allegations in Paragraph 29.

30. Green Tree denies the allegations in Paragraph 30 of the Complaint.

31. Green Tree denies the allegations in Paragraph 31 of the Complaint.

32. Green Tree denies the allegations in Paragraph 32 of the Complaint.

**CLASS ALLEGATIONS**

33. Green Tree admits only that Plaintiff purports to bring this action on behalf of a class, but denies that class certification is proper.

34. Green Tree admits only that Plaintiff purports to identify a class, but denies that Plaintiff has a viable class to maintain this lawsuit as a class action.

35. Green Tree denies the allegations in Paragraph 35 of the Complaint.

36. Green Tree admits only that Plaintiff purports to exclude certain members from the putative class, but denies that a viable class exists to maintain this lawsuit as a class action.

37. Green Tree denies the allegations in Paragraph 37 of the Complaint.

38. Green Tree denies the allegations in Paragraph 38 of the Complaint.

39. Green Tree denies the allegations in Paragraph 39 of the Complaint.

40. Green Tree denies the allegations in Paragraph 40 of the Complaint as a legal conclusion to which no response is required. To the extent a further response is required, Green Tree denies the allegations in Paragraph 40.

41. Green Tree denies the allegations in Paragraph 41 of the Complaint as a legal conclusion to which no response is required. To the extent a further response is required, Green Tree denies the allegations in Paragraph 41.

42. Green Tree denies the allegations in Paragraph 42 of the Complaint as a legal conclusion to which no response is required. To the extent a further response is required, Green Tree denies the allegations in Paragraph 42.

### **AFFIRMATIVE DEFENSES**

#### **FIRST DEFENSE**

1. As its First Defense, Green Tree states that the alleged voice mails did not constitute communications in connection with the collection of a debt under 15 U.S.C. § 1692e of the Fair Debt Collection Practices Act (the ‘FDCPA’).

#### **SECOND DEFENSE**

2. As its Second Defense, Green Tree states that the FDCPA claims are barred to the extent that Plaintiff and/or any class members seek to recover damages for any FDCPA violations that occurred more than one (1) year prior to the filing of this lawsuit.

**THIRD DEFENSE**

3. As its Third Defense, Green Tree states that the subject communications did not constitute communications in connection with the collection of a debt under 15 U.S.C. § 1692e of the FDCPA to the extent their purpose was to enforce a security interest.

**FOURTH DEFENSE**

4. As its Fourth Defense, Green Tree states that the FDCPA claims are barred due to a failure by Plaintiff and/or the class members to mitigate their damages.

**FIFTH DEFENSE**

5. As its Fifth Defense, Green Tree states that the FDCPA claims are barred as any alleged violation was not intentional and resulted from a bona fide error notwithstanding it maintaining procedures reasonably adapted to avoid any such error.

**SIXTH DEFENSE**

6. As its Sixth Defense, Green Tree states that the claim for actual damages under the FDCPA is barred as Plaintiff and/or the class members did not suffer any actual injuries or damages as a result of the alleged violation.

**SEVENTH DEFENSE**

7. As its Seventh Defense, Green Tree states that it is not a debt collector under the FDCPA.

### RESERVATION OF RIGHTS

8. Green Tree reserves the right to amend its affirmative defenses as the case progresses, in accordance with the requirements of any Scheduling Order of this Court.

s/ Martin C. Bryce Jr.  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 26<sup>th</sup> day of September, 2014 a true and correct copy of the foregoing **ANSWER AND AFFIRMATIVE DEFENSES** was electronically filed with the Clerk of this Court using the CM/ECF system, which will electronically mail notice to the following attorneys of record:

Ryan L. Gentile, Esq.  
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s/ Martin C. Bryce, Jr.  
Martin C. Bryce, Jr.